

REFERENCE TITLE: securities dealers; salesmen; fees

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

## **HB 2094**

Introduced by  
Representatives Barnes, Pratt, Kavanagh, McGuire

AN ACT

AMENDING SECTIONS 44-1861 AND 44-2039, ARIZONA REVISED STATUTES; RELATING TO SECURITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 44-1861, Arizona Revised Statutes, is amended to  
3 read:

4       44-1861. Fees; deposit; abandonment

5       A. BY the ~~following~~ AFFIRMATIVE VOTE OF AT LEAST FOUR COMMISSIONERS,  
6 THE COMMISSION MAY ESTABLISH BY RULE AN annual fee for THE registration OF A  
7 DEALER OR A SALESMAN. THE FEE shall be remitted on or before the last  
8 working day of December, AND THE COMMISSION SHALL DEPOSIT THE FEE, PURSUANT  
9 TO SECTIONS 35-146 AND 35-147, IN THE SECURITIES REGULATORY AND ENFORCEMENT  
10 FUND ESTABLISHED BY SECTION 44-2039. +

11       1. ~~For each dealer, three hundred dollars, of which fifty dollars is~~  
12 ~~allocated to the fund established under section 44-2039.~~

13       2. ~~For each salesman, forty dollars, of which fifteen dollars is~~  
14 ~~allocated to the fund established under section 44-2039.~~

15       B. The registration fee for any dealer who deals exclusively in  
16 securities of which the dealer is the issuer is one hundred dollars.

17       C. For registration of securities by description, there shall be paid  
18 to the commission a nonrefundable registration fee of one-tenth of one per  
19 cent of the aggregate offering price of the securities ~~which THAT~~ are to be  
20 sold in this state, but in no event shall the registration fee be less than  
21 two hundred dollars nor more than two thousand dollars. The amount by which  
22 a registration fee exceeds one thousand five hundred dollars shall be  
23 allocated to the commerce and economic development commission fund  
24 established by section 41-1505.10.

25       D. BY the AFFIRMATIVE VOTE OF AT LEAST FOUR COMMISSIONERS, THE  
26 COMMISSION MAY ESTABLISH BY RULE A transfer fee for a salesman transferring  
27 ~~his~~ THE SALESMAN'S registration from one registered dealer to another  
28 registered dealer ~~is forty dollars, of which fifteen dollars is allocated to~~  
29 ~~the fund established under section 44-2039.~~ THE COMMISSION SHALL DEPOSIT THE  
30 FEE, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE SECURITIES REGULATORY AND  
31 ENFORCEMENT FUND ESTABLISHED BY SECTION 44-2039.

32       E. The initial filing of a form required for safe harbor exemptions  
33 provided for in the securities act of 1933 (15 United States Code section  
34 77(a) et seq.) pursuant to the rules of the commission shall be accompanied  
35 by a filing fee of two hundred fifty dollars, of which fifty dollars shall be  
36 allocated to the commerce and economic development commission fund  
37 established by section 41-1505.10. The final filing of the form, if separate  
38 from the initial filing, shall be accompanied by a filing fee of one hundred  
39 dollars that is allocated to the commerce and economic development commission  
40 fund established by section 41-1505.10.

41       F. For a name change of securities registered by qualification or  
42 description, a filing fee of one hundred dollars is payable to the  
43 commission.

1       G. For filing a notice required by the commission by rule pursuant to  
2 section 44-1845, a filing fee of one hundred dollars is payable to the  
3 commission.

4       H. For filing a petition pursuant to section 44-1846, a filing fee of  
5 two hundred fifty dollars is payable to the commission.

6       I. Except as provided in subsections A, C, D, E and P of this section,  
7 section 44-1843 and section 44-1892, paragraph 3, all fees collected under  
8 this chapter shall be deposited in the state general fund.

9       J. An issuer who sells securities in this state in excess of the  
10 aggregate amount of securities registered in this state ~~may~~, while ~~such~~ THE  
11 registration is still effective, ~~MAY~~ apply to register the excess securities  
12 by paying three times the difference between the initial registration fee  
13 paid and the registration fee required under subsection C of this section or  
14 section 44-1892, paragraph 3. Registration of the excess securities, if  
15 granted, is effective retroactively to the date of the existing registration.

16      K. An application for registration of securities or registration of a  
17 dealer or salesman or an incomplete notice filing is deemed abandoned if  
18 both:

19       1. The application or notice filing has been on file with the  
20 commission for at least six months or the applicant or notice filer has  
21 failed to respond to a request for information for at least two months after  
22 the date of the request.

23       2. The applicant or notice filer has failed to respond to the  
24 commission's notice of warning of abandonment within sixty calendar days  
25 after the date of the warning.

26      L. The commission shall retain fees collected in connection with  
27 abandoned applications or notice filings for deposit in the state general  
28 fund.

29      M. The nonrefundable filing fee for a request for a no-action letter  
30 from the securities division is two hundred dollars.

31      N. The nonrefundable filing fee for an application for registration  
32 pursuant to section 44-1902 is two hundred fifty dollars.

33      O. The fee for submitting fingerprint cards to the department of  
34 public safety is the fee required by that department.

35      P. Any securities exchange established in this state shall pay to the  
36 commission on or before March 15 of each calendar year an exchange  
37 registration fee in an amount equal to two-tenths of one cent for each share,  
38 bond or option or any other single unit of a security, ~~which~~ THAT is  
39 exchanged during each preceding calendar year. ~~which~~ THE COMMISSION shall be  
40 ~~deposited~~ DEPOSIT THE FEE, PURSUANT TO SECTIONS 35-146 AND 35-147, in the  
41 securities regulatory and enforcement fund established by section 44-2039 for  
42 the purpose of regulating the securities exchange. The commission, by rule,  
43 may exempt any sale of securities or any class of sales of securities from  
44 the fee imposed by this subsection, if it finds that an exemption is

1 consistent with the public interest and the equal regulation of the market  
2 and brokers and dealers.

3 Sec. 2. Section 44-2039, Arizona Revised Statutes, is amended to read:  
4 44-2039. Securities regulatory and enforcement fund: purpose

5 A. A securities regulatory and enforcement fund is established and  
6 shall be administered by the commission under the conditions and for the  
7 purposes provided by this section. Monies in the fund are exempt from the  
8 provisions of section 35-190 relating to lapsing.

9 B. Fees collected pursuant to section 44-1861, ~~subsection~~ SUBSECTIONS  
10 A, ~~paragraphs 1 and 2 and subsections~~ D and P shall be deposited, pursuant to  
11 sections 35-146 and 35-147, in the securities regulatory and enforcement  
12 fund.

13 C. Monies in the fund are subject to legislative appropriation. The  
14 commission shall use the monies in the fund for education and regulatory,  
15 investigative and enforcement operations in the securities division and a  
16 part of general administrative and hearing expenses of the commission, EXCEPT  
17 THAT ON OR BEFORE FEBRUARY 1 OF EACH YEAR, FIVE MILLION FIVE HUNDRED TEN  
18 THOUSAND DOLLARS SHALL BE TRANSFERRED FROM THE SECURITIES REGULATORY AND  
19 ENFORCEMENT FUND TO THE STATE GENERAL FUND.

20 Sec. 3. Salesman and dealer fees; rule making; exemption

21 Notwithstanding section 44-1861, subsections A and D, Arizona Revised  
22 Statutes, as amended by this act, before December 31, 2009, the Arizona  
23 corporation commission may establish by order the annual registration fees  
24 for dealers and salesmen, as defined in section 44-1801, Arizona Revised  
25 Statutes, and the salesman transfer fee. The commission is exempt from the  
26 rule making requirements of title 41, chapter 6, Arizona Revised Statutes,  
27 for the purposes of setting each of the specified fees by order one time.